



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Richard Doyle
City Attorney

SUBJECT: Approval of an Ordinance
Amending the Municipal Code
Related to the Federated
Employees' Retirement System

DATE: October 26, 2012

RECOMMENDATION

Approve an ordinance amending various sections of Chapter 3.28. of Title 3 of the San José Municipal Code to implement certain employee retirement provisions approved by the voters and the City Council for the City of San José Federated City Employees' Retirement System ("Federated System").

BACKGROUND

On November 2, 2010, the City voters approved an amendment to City Charter allowing the City Council to adopt new retirement plans for new employees. On June 5, 2012, the City voters approved Measure B and further approved the perimeters of any new retirement plan for new employees. Measure B provided for the elimination of SRBR and the requirement that all retirement plans be actuarially sound.

On June 12, 2012, the City Council approved changes to retirement benefits for new employees and changes to Medicare Parts A and B for all employees and retirees in the Federated System. Attached is one of the summaries attached to a staff memo that was provided to the bargaining unit and approved by the City Council which contains the changes to retirement benefits in the Federated System. Also, in the staff report submitted to the City Council regarding the modifications of benefit for employees in Executive Management and Professional Employees (Unit 99), City staff mentioned that in addition to the new defined benefit retirement plan in Tier 2 for new employees, the City staff would be considering establishing a defined contribution retirement plan option for new employees.

Consistent with a stipulation agreed to with the parties in the pending litigation over Measure B, changes to ordinances will have an effective date of January 1, 2013.

ANALYSIS

On August 28, 2012, the City Council approved Ordinance 29120 setting forth the perimeters of a second tier retirement plan for new employees in the Federated System with an effective date of September 30, 2012.

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The proposed ordinance will further amend Chapter 3.28 of the Municipal Code to ratify and implement additional provisions of Measure B including the provisions to eliminate the Supplemental Retiree Benefit Reserve (also referred to as the "SRBR" or "the 13th check") and the requirement that the City's retirement plan be actuarially sound consistent with Article XVI, section 17 of the California constitution. Pursuant to the action of the City Council earlier this year, disbursements from the SRBR for both the Federated and Police and Fire Retirement Plans were suspended through Fiscal Year 2012-2013.

In addition, the proposed ordinance will implement the requirement approved by the City Council on June 12, 2012 that any member eligible for retiree healthcare benefits in the Federated System is required to enroll in Medicare Part A and B at age 65. If a Federated System plan member fails to enroll within 6 months from the date the member becomes age 65, or if the member is already 65, within 6 months of the effective date of the ordinance, the Federated System plan shall cease to provide the healthcare benefits until the Federated System plan member enrolls in Medicare.

Further, the proposed ordinance redefines the application of the Tier 2 provisions which will allow the Council to approve a defined contribution retirement plan in the future as allowed in Measure B.

Additional amendments to the Municipal Code related to the Police and Fire Department Retirement Plan reflecting the provisions in Measure B and approved by Council will be brought forward at a later date.

Pursuant to Municipal Code Section 3.28.275, the City Administration will forward the proposed ordinance to the Federated City Employees Retirement Board for its review and recommendation.

If the Council approves the proposed ordinance for publication, the ordinance will be placed on the Council agenda for final approval on November 27, 2012 and become effective January 1, 2013.

RICHARD DOYLE
City Attorney

By 

Ed Moran
Assistant City Attorney

Attachment

cc: Debra Figone

For questions, please contact Ed Moran, Assistant City Attorney, at (408) 535-1920 or Jennifer Schembri, Assistant to the City Manager, at (408) 535-8154.

ATTACHMENT

2012 CITY OF SAN JOSE – AEA, IFPTE LOCAL 21 (UNIT'S 41/42 AND 43)

CITY PROPOSAL – RETIREMENT BENEFITS FOR NEW EMPLOYEES

The benefits set forth below shall apply to full time eligible employees who are hired on or after July 1, 2012, and shall be referred to as Tier 2 in the Federated City Employees' Retirement System.

Proposed Language:

Pension Formula.

The pension benefit formula for eligible employees hired on or after July 1, 2012, shall be 2.0% percent per year of service subject to a maximum of 65% of final compensation.

Final Compensation

Final compensation shall mean the average annual earned pay of the highest three consecutive years of service. Final compensation shall be base pay only, excluding premium pays or other additional compensation.

Minimum Service

Employees shall be eligible for a service retirement after earning five (5) years of retirement service credit and meeting the age requirement specified below.

Retirement Service Credit

Employees shall be eligible for a full year of service credit upon reaching 2,080 hours of regular time worked (including paid leave, but not overtime).

Age

Employees hired on or after July 1, 2012, shall be eligible to retire at age 65 with at least five (5) years of retirement service credit.

Employees can retire at a minimum of age 55 with at least five (5) years of retirement service credit; however, the member's benefit shall be reduced so it does not exceed the actuarial value of full retirement. This reduced benefit shall be determined by the Federated City Employees' Retirement System actuary.

Deferral of Retirement

Employees who leave employment who have at least five (5) years of retirement service credit may defer the retirement benefit until the employee becomes eligible to retire.

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Cost of Living Adjustment (COLA)

Plan members shall receive a cost of living adjustment limited to the increase in the consumer price index (San Jose - San Francisco - Oakland U.S. Bureau of Labor Statistics Index, CPI-U, December to December), capped at 1.5% per fiscal year. The first COLA adjustment shall be prorated based on the number of months retired.

Disability Retirements

Service Connected

Plan members who are eligible for a service connected disability retirement benefit shall receive an annual benefit based on 50% of the average annual pensionable pay of the highest three consecutive years of service.

Non-Service Connected

Plan members who are eligible for a non-service connected disability retirement benefit shall receive 2.0% times years of City service, but not less than 20% and not greater than 50% based on the average annual pensionable pay of the highest three consecutive years of service. Plan members shall not be eligible for a non-service connected disability retirement unless the member has earned 5 years of retirement service credit.

Survivorship Benefits

Death Before Retirement

If an employee dies during employment with the City and was not eligible for retirement, a return of employee contributions, plus interest shall be returned to the spouse, domestic partner, or estate.

If an employee dies during employment with the City and was eligible for retirement, a monthly benefit equivalent to what the employee would have received if retired at the time of death shall be provided to the spouse, domestic partner, or estate.

Death Before Retirement - Employees killed in the line of duty

If an employee is killed in the line of duty, the surviving spouse or domestic partner shall receive a monthly benefit equivalent to 50% of the average annual pensionable pay of the highest three consecutive years of service.

Death After Retirement

At the time of retirement, an employee may elect to receive a lower pension benefit to provide survivorship benefits to a spouse/domestic partner or child(ren) designated at

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the time of retirement. The Board's actuary shall determine the pension benefit for a 50%, 75% or 100% continuance that is actuarially equivalent to the member's benefit.

Defined Contribution Plan

Employees may supplement the retirement benefit by electing to make contributions to a defined contribution plan offered by the City, up to the annual IRS limit.

Cost Sharing

The City and Plan members in Tier 2 shall share equally in all costs of Tier 2 to the pension plan, including, but not limited to administrative expenses, normal cost and unfunded actuarial liability.

Reciprocity

Employees hired on or after July 1, 2012, shall be eligible for the benefits under the reciprocal agreement with CalPERS that are in effect at the time of the employee's retirement.

Rights

The City expressly retains its authority to amend, change or terminate any retirement or other post employment benefit provided by the City.

The retirement benefits for employees in Tier 2 shall include those described herein and shall not include any other benefits received by other members of the Federated City Employees' Retirement System, including, but not limited to, the purchase of service credit and redeposit of contributions.

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CITY PROPOSAL: MEDICARE PART A AND B ENROLLMENT

Proposed Language:

Effective July 1, 2012, a member who is eligible for retiree healthcare benefits in the Federated City Employees' Retirement System shall be required to enroll in Medicare Part A and B at the age of 65. Additionally, the plan member shall be required to enroll in a Medicare Plan provided by the Federated City Employees' Retirement System and assign Medicare Part A and B to the Medicare Plan if required by the healthcare provider.

If a plan member was hired before March 1986 and is not eligible for Medicare Part A at no cost, the plan member shall be required to provide such verification from the U.S. Social Security Administration to the Department of Retirement Services within 6 months from the date the plan member becomes age 65. Plan members shall be required to enroll in a Medicare Plan provided by the Federated City Employees' Retirement System within 6 months from the date the plan member is age 65.

If a plan member fails to meet the requirements set forth above within 6 months from the date the member becomes age 65, the plan shall cease to provide retiree healthcare benefits until the plan member completes such requirements. This means that the member and qualifying dependents (if applicable) shall not receive retiree healthcare benefits. The Plan member and qualifying dependents shall be re-enrolled in retiree healthcare benefits beginning the 1st day of the following month after such requirements have been completed.

If the Plan member dies during the period which the plan member failed to complete the requirements set forth above, the eligible spouse or domestic partner and child(ren) shall be re-enrolled in a health insurance plan. When the spouse or domestic partner is age 65, the same requirements must be fulfilled; otherwise retiree healthcare coverage will cease until such requirements are completed, as set forth above.